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8   **UNITED STATES DISTRICT COURT**

9   **NORTHERN DISTRICT OF CALIFORNIA**

10   **SAN FRANCISCO DIVISION**

11   UNITED STATES OF AMERICA,   Case No. 08-CR-00222 WHA

12   Plaintiff,   Case No. 14-CR-00306 WHA

13   v.   **ORDER REQUESTING FURTHER
                                                          BRIEFING IN SUPPORT OF**
14   LUKE BRUGNARA,   **MOTION FOR MODIFICATION OF
                                                          RELEASE CONDITIONS**
15   Defendant.
                                                          Re: Dkt. No. 134
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20   Luke Brugnara moves again to modify the conditions of his pretrial release and seeks

21   a hearing to present additional evidence that he is not a danger to the community. A

22   detention hearing may be reopened before trial "if the judicial officer finds that information

23   exists that was not known to the movant at the time of the hearing and that has a material

24   bearing on the issue whether there are conditions of release that will reasonably assure the

25   appearance of such person as required and the safety of any other person and the

26   community." 18 U.S.C. § 3142(f). This standard is not a surprise, as it was applied to

27   Brugnara's previous motion for reconsideration of detention. Dkt. No. 38, filed 6/27/2014.

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Here, Brugnara, in a nine-page motion, does not seek to explain whether his proposed supplemental information was known to him at the time of the previous detention hearings. Brugnara himself has testified to his financial history. For example, during a detention hearing on June 11, 2014, Brugnara stated: "Nobody has ever, your Honor, in $2 billion of transactions spanning 22 years of two million square feet of commercial space has ever stated that I've engaged in fraud." Dkt. No. 44 at 35:9-12. The motion also does not explain the materiality of the "new" information. Finally, the motion ignores extensive prior evidence and arguments made by Brugnara that he is not a danger to the community. See Dkt. No. 8 (transcript of hearing before Magistrate Judge Corley, including statements made by Brugnara, 5/28/2014); Dkt. No. 7 (detention order by Magistrate Judge Corley); Dkt. No. 43 (transcript of 5/30/2014 hearing before Magistrate Judge Corley, including statements made by Brugnara); Dkt. No. 44 (transcript of 6/11/2014 detention hearing before Magistrate Judge Cousins, including statements made by Brugnara); Dkt. No. 12 (minutes of detention hearing 6/11/2014 before Magistrate Judge Cousins); Dkt. No. 15 (detention order, 6/13/2014); Dkt. No. 30 (Brugnara motion to revoke detention order); Dkt. No. 31 (Brugnara motion to reconsider detention order); Dkt. No. 37 (hearing on Brugnara's motion for reconsideration of detention, 6/27/2014); Dkt. No. 45 (7/9/2014 motion for reconsideration of detention); Dkt. No. 48 (7/17/2014 motion for reconsideration of detention); Dkt. No. 64 (transcript of 6/27/2014 detention hearing before Magistrate Judge Cousins); Dkt. Nos. 72 (partial and full transcript of 8/13/2014 hearing before Judge William H. Alsup, including statement by Brugnara); Dkt. No. 75 (minute entry for 8/14/2014 bail hearing before Judge Alsup, at which Mark Levinson and Kay Brugnara testified); Dkt. No. 92 (minute entry for 8/22/2014 bail hearing before Judge Alsup); Dkt. No. 101 (minute entry for 9/3/2014 bail hearing before Magistrate Judge Cousins); Dkt. No. 110 (Brugnara motion for hearing to refute economic danger); Dkt. No. 122 (minute entry for 9/12/2014 hearing, with witnesses, on government motion to stay Judge Alsup's order modifying release conditions).

1   If Brugnara wishes to modify his release conditions based on new information, then

2 he must file a motion that at least satisfies the threshold requirements of 18 U.S.C. §

3 3142(f). If he wishes to have a detention hearing on September 24 at 11:00 a.m., his motion

4 is due September 22 by 8:00 a.m. The government may respond by September 23 at 5:00

5 p.m. No reply will be permitted without further leave of Court.

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7   IT IS SO ORDERED.

8   Date: September 20, 2014

9   Nathanael M. Cousins
                                                    United States Magistrate Judge

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